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July 6, 2005

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Honorable Judith Gail Dein
United States Magistrate Judge
United States District Court for the
District of Massachusetts
1 Courthouse Way, Suite 6410
Boston, MA 02210-9901

**Re: *Holubar v. kholberger et al.*, Civil Action Number 03-12404-NG
Our File: 6-02-3269 ECR/CEM**

Dear Judge Dein:

We are attorneys for Defendants in the above referenced action and write to advise the Court of the status of discovery following the telephone conference on June 29, 2005 and confirm receipt of Plaintiff's Statement of Damages on June 30, 2005.

Immediately following the June 29, 2005 telephone conference, we scheduled Plaintiff's IME with our Medical Expert for July 7, 2005 and noticed Plaintiff's deposition for July 14, 2005.

Subsequently, also on June 29th, Plaintiff's counsel advised us that Joel Holubar would be out of the country from July 12 through July 25, 2005. This information was not presented to the Court during the telephone conference earlier that day.

Today, we were advised by Defendants' designated physician's office that Plaintiff cancelled the July 7, 2005 appointment and rescheduled his IME for August 2, 2005, after the discovery deadline.

Plaintiff's actions, undisclosed absence from the country during the bulk of the remaining discovery period, and failure to schedule his IME and deposition within the mandated discovery period, make it impossible for the parties to comply with the Court's Scheduling Order. Thus, we respectfully request an extension of the discovery deadline at least until August 12, 2005, the date of the next telephone conference scheduled with

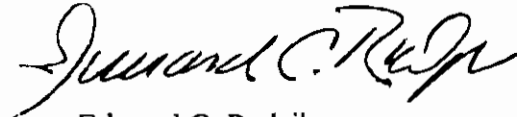
the Court. In the alternative, we request that the Court direct Plaintiff Joel Holubar to appear for his IME followed by his deposition during the period of the current scheduling order or be subject to appropriate sanctions.

Thank you for your attention to this matter.

Respectfully submitted,

DONOVAN PARRY MCDERMOTT & RADZIK

By:



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